

# **Exhibit C**

**From:** [jonke, kevin](#)  
**To:** [John Hughes](#); [Peggy Wedgworth](#); [DMSTEAM \(MILBERG.COM\)](#); [Nemelka, Michael N.](#); [DMSTEAM \(MILBERG.COM\)](#); [Dorris, Daniel V.](#)  
**Cc:** [katz, katherine](#); [Long, Emily](#); [Provance, Matthew D.](#); [Stride, Megan E.](#); [\\*BMiller@mayerbrown.com](#)  
**Subject:** [EXTERNAL] In re DMS: Agreement re Class Certification Schedule and Discovery  
**Date:** Wednesday, September 27, 2023 5:04:39 PM

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All,

Here is the final agreement regarding the class certification schedule and supplemental discovery. I've made no changes other than accepting the redline edits. We will file the stipulation shortly.

The schedule will be modified as follows:

- Tuesday, November 21, 2023 (49 additional days from existing schedule): Opening Class Certification Briefs and Expert Reports
- Friday, January 5, 2024 (45 days from Opening Class Certification Briefs): Opposition Class Certification Brief(s), Expert Report(s), and CDK's Opening Daubert Briefs (if any)
- Friday, February 16, 2024 (42 Days from Opposition Class Certification Briefs): Reply Class Certification Briefs, Reply Class Certification Expert Reports, Plaintiffs' Opposition Daubert Briefs (if any), and Plaintiffs' Opening Daubert Briefs (if any)
- Friday, March 15, 2024 (28 Days from Opposition Daubert Briefs): CDK's Reply Daubert Briefs and CDK's Opposition Daubert Briefs (if any)
- Friday, April 5, 2024: Plaintiffs' Reply Daubert Briefs (if any)

CDK

- By October 19, 2023, CDK will produce, for the period from May 1, 2019 to September 15, 2023, data supplementing the invoice data previously produced by CDK as CDK-3112783, CDK-3112784, CDK-3112785, CDK-3112786, CDK-3112787, CDK-112788, CDK-3112789, CDK-3112790, CDK-3112791, CDK-3116422 and CDK-3116424. For the avoidance of doubt, this production will comprise structured data regarding DMS and DIS sales at the invoice level for both dealers and vendors and for 3PA, Fortellis, or any other DIS, and as far as reasonably possible, CDK will produce this information in the same format as the aforementioned Bates numbered documents. To the extent the data includes fields or formatting other than that of the aforementioned Bates numbered documents, CDK will respond to plaintiffs' reasonable requests to provide all information necessary to explain any billing or policy changes which result in such differences. This includes but is not limited to any alteration in the invoicing of DIS fees or identification of customers that pay them.
- CDK expressly reserves all rights to argue that this data and any projections based on the data are irrelevant to any claim, but agrees not to make any argument against an extrapolation of damages after September 15, 2023 on grounds that the data is stale.
- CDK agrees that it will not request any change to the current trial date based on this agreement and the above agreed schedule, or, relatedly, based on the timing of any Rule 23(f) petition.
- CDK agrees that it will not make any future request that plaintiffs refresh the data responsive to the bullets below.
- CDK agrees that no Dealership or Vendor plaintiff previously deposed in this litigation shall be subject to any additional deposition during the class certification briefing period (*i.e.*, before

April 5, 2024).

#### Dealers

- By November 21, 2023, and on a rolling basis before then, as to each Dealer Class Representative, Dealers agree to produce from June 1, 2019 to September 15, 2023, responsive documents sufficient to show all up-front, initial (non-recurring) and monthly fees paid to Data Extractors and Vendors (on a per-application basis) (the “Dealer Data”).
  - As to each Dealer Class Representative with a Reynolds DMS, Dealers agree to produce reports containing Dealer Data from the Reynolds DMS. Dealers shall endeavor to complete production of reports from the Reynolds DMS by October 19, 2023.
  - As to each Dealer Class Representative with a CDK DMS, Dealers agree to use best efforts, including but not limited to obtaining any necessary permissions, to enable CDK to generate reports containing Dealer Data from the CDK DMS.
- As to any newly added Dealer Class Representative, Dealers agree that (1) the terms of the previous bullet apply from January 1, 2013 to September 15, 2023; and (2) Dealers will make a representative of any such newly added Dealer Class Representative available for deposition in advance of CDK’s class opposition deadline.
- Dealers agree to serve updated responses to Interrogatories No. 2 and 3.
- Dealers agree not to make any future requests to refresh the data responsive to their Class Certification RFP No. 1.
- Dealers agree that no CDK witness previously deposited in this litigation shall be subject to any additional deposition in the class certification briefing period (*i.e.*, before April 5, 2024)

#### Vendors

- By November 21, 2023, and on a rolling basis before then, Vendors agree to produce, for the period from May 1, 2019 to September 15, 2023, data supplementing (1) data at, for example, AL\_MDL\_0077574 (what CDK referred to as invoice-level data for AutoLoop apps), and (2) data produced at, for example, AL\_MDL\_0080869 (what CDK referred to as AL and XRM Income by Customer). To the extent the data includes fields or formatting other than that of the aforementioned Bates numbered documents, Vendors will respond to CDK’s reasonable requests to provide all information necessary to explain any billing or policy changes which result in such differences. Vendors shall endeavor to complete production by October 19, 2023.
- By October 19, 2023, and on a rolling basis before then, Vendors agree to produce any Master MRRs and Audited Financial Statements that were created since the time of the Vendors’ last data refresh.
- For the other categories of documents that CDK requested, we have reasonably investigated and determined that those categories of documents are no longer created.
- Vendors agree that no CDK witness previously deposited in this litigation shall be subject to any additional deposition in the class certification briefing period (*i.e.*, before April 5, 2024)

#### Kevin Jonke

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